

21 C.J.S. Courts § 98

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

J. Objections to Jurisdiction; Estoppel or Waiver of Objections

§ 98. Objections to personal jurisdiction—Delay in raising objection

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  37(2)

An objection that the court lacks personal jurisdiction is waived if not made in a timely manner and generally at the first opportunity.

An objection to jurisdiction based on a lack of jurisdiction of the person is usually waived by failure to raise the objection in a timely manner,¹ which may require raising it within a prescribed time after filing an appearance,² or on the filing of responsive pleadings³ or motions,⁴ or at the first opportunity.⁵

If the plaintiff's action is not properly commenced, and thus does not constitute an action filed, the defendant's failure to object to personal jurisdiction in the matter within the time generally prescribed for objections is not a waiver of personal jurisdiction.⁶

A nonresident defendant did not waive an objection to personal jurisdiction for purposes of a default judgment rendered against the defendant, despite failing to raise a timely objection during the default proceedings, since the defendant's challenge to the validity of the default judgment rested on the due process requirement for personal jurisdiction as a predicate to the entry of an in personam judgment against the defendant.⁷

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Footnotes

¹ Ala.—*Afassco, Inc. v. Sanders*, 142 So. 3d 1119 (Ala. 2013).

- Conn.—*St. Paul's Flax Hill Co-op. v. Johnson*, 124 Conn. App. 728, 6 A.3d 1168 (2010).
- Ga.—*AIM DMC One, LLC v. Frank Gates Service Co.*, 325 Ga. App. 440, 754 S.E.2d 82 (2013).
- Mass.—*I.S.H. v. M.D.B.*, 83 Mass. App. Ct. 553, 987 N.E.2d 223 (2013).
- N.C.—*Rossi v. Spoloric*, 781 S.E.2d 648 (N.C. Ct. App. 2016).
- Tex.—*Trenz v. Peter Paul Petroleum Co.*, 388 S.W.3d 796 (Tex. App. Houston 1st Dist. 2012).
- 2 Conn.—*C & H Management, LLC v. City of Shelton*, 140 Conn. App. 608, 59 A.3d 851 (2013).
- 3 Conn.—*Investment Associates v. Summit Associates, Inc.*, 132 Conn. App. 192, 31 A.3d 820 (2011), judgment aff'd, 309 Conn. 840, 74 A.3d 1192 (2013).
- Mass.—*I.S.H. v. M.D.B.*, 83 Mass. App. Ct. 553, 987 N.E.2d 223 (2013).
- N.Y.—*NYRU, Inc. v. Forge Restaurant, LLC*, 92 A.D.3d 511, 938 N.Y.S.2d 306 (1st Dep't 2012).
- Ohio—*D'Amore v. Mathews*, 193 Ohio App. 3d 575, 2011-Ohio-2853, 952 N.E.2d 1212 (12th Dist. Madison County 2011).
- 4 Conn.—*Birkhamshaw v. Socha*, 156 Conn. App. 453, 115 A.3d 1 (2015), certification denied, 317 Conn. 913, 116 A.3d 812 (2015).
- Md.—*Burnside v. Wong*, 412 Md. 180, 986 A.2d 427 (2010).
- Mass.—*Raposo v. Evans*, 71 Mass. App. Ct. 379, 882 N.E.2d 356 (2008).
- N.Y.—*Horvath v. Progressive Cas. Ins. Co.*, 24 Misc. 3d 194, 882 N.Y.S.2d 822 (Dist. Ct. 2009).
- No waiver by amendment before hearing**
- Fla.—*Snider v. Metcalfe*, 157 So. 3d 422 (Fla. 4th DCA 2015).
- 5 Fla.—*Snider v. Metcalfe*, 157 So. 3d 422 (Fla. 4th DCA 2015).
- Mo.—*Gletzer v. Harris*, 159 S.W.3d 462 (Mo. Ct. App. E.D. 2005).
- Or.—*Department of Human Services v. M.C.-C.*, 275 Or. App. 121, 365 P.3d 533 (2015), review denied, 358 Or. 611 (2016).
- First reasonable opportunity**
- S.D.—*State v. Fifteen Impounded Cats*, 2010 SD 50, 785 N.W.2d 272 (S.D. 2010).
- Required in first filing**
- Fla.—*Chancellor v. BWC Investments*, 57 So. 3d 969 (Fla. 4th DCA 2011).
- 6 N.Y.—*New York Medical Rehab., P.C. v. Travelers Ins. Co.*, 40 Misc. 3d 76, 971 N.Y.S.2d 645 (App. Term 2013).
- 7 Fla.—*Wiggins v. Tigrent, Inc.*, 147 So. 3d 76 (Fla. 2d DCA 2014).